



# City of Grand Island

Tuesday, July 14, 2015

Council Session

## Item F-4

**#9547 – Consideration of Amending Chapter 20 of the Grand Island City Code Relative to E-Cigarettes**

Staff Contact: Robert Sivick

# Council Agenda Memo

**From:** Stacy R. Nonhof, Assistant City Attorney

**Meeting:** July 14, 2015

**Subject:** Amending Chapter 20 Regarding Tobacco Use by Minors

**Presenter(s):** Stacy R. Nonhof, Assistant City Attorney

## Background

In the 2014 Legislative Session, the Nebraska Legislature amended the provisions of State Statute that govern tobacco use by minors. Given the increase in the use of e-cigarettes, the Legislature included e-cigarettes in the list of items that minors are prohibited from possessing.

## Discussion

According to the Centers for Disease Control and Prevention, e-cigarette usage has now surpassed traditional cigarette use among middle and high school students. The current research indicates that nicotine in any form is damaging to the lungs, but the research also shows that non-nicotine e-cigarette solution has a damaging effect on lung health. The long-term effects of these nicotine free solutions are not known and will not be known for some time as e-cigarettes are relatively new. In order to try to protect the health of the youth of Grand Island, an Ordinance banning all vapor products for anyone under the age of 18 is needed.

The Nebraska Legislature has already added e-cigarettes as banned items for minors to possess. The State limits their definition of e-cigarettes/vapor products to items containing nicotine. Nebraska Statute allows municipal governments to enact ordinances that are more restrictive than State Statute, but not more permissive. In the field, without a chemical test being done of the solution, there is no way for police officers to know whether or not the solution contains nicotine. Banning all vapor products for people under the age of 18 makes enforcement of City Ordinance consistent.

## Alternatives

It appears that the Council has the following alternatives concerning the issue at hand. The Council may:

1. Move to approve
2. Refer the issue to a Committee
3. Postpone the issue to future date
4. Take no action on the issue

### **Recommendation**

City Administration recommends that the Council approve the Ordinance amending Chapter 20 of City Code.

### **Sample Motion**

Move to approve the Ordinance.

ORDINANCE NO. 9547

An ordinance to amend Chapter 20 of Grand Island City Code; to amend Section 20-20; and to add Section 20-20.1; to clarify and/or make general corrections to various code sections, to repeal any ordinance or parts of ordinances in conflict herewith; and to provide for publication and the effective date of this ordinance.

BE IT ORDAINED BY THE MAYOR AND COUNCIL OF THE CITY OF GRAND ISLAND, NEBRASKA:

SECTION 1. Section 20-20; and Section 20-20.1 of the Grand Island City Code is hereby amended to read as follows:

**§20-20. Tobacco; Possession By Minors**

(A) It shall be unlawful for any person under the age of eighteen (18) years to possess any tobacco products, vapor products or alternative nicotine products. ~~Tobacco products shall be defined to mean any substance containing tobacco leaf, including but not limited to, cigarettes, cigars, pipe tobacco, snuff, chewing tobacco, or dipping tobacco.~~

(B) It shall not be unlawful for any person under the age of eighteen (18) years to:

(1) Possess tobacco products, vapor products or alternative nicotine products under the direct supervision of the parent or guardian of such person in the privacy of the parent's or guardian's home.

(2) Sell or handle any unopened container of tobacco products, vapor products or alternative nicotine products in the course of his or her employment by a tobacco licensee; or

(3) Possess or purchase tobacco products, vapor products or alternative nicotine products for the purpose of testing or enforcing compliance with statutes, laws or ordinances governing the sale of tobacco products, vapor products or alternative nicotine products as long as law enforcement is conducting the compliance check.

(C) Any person violating the provisions of this section shall be fined according to the provisions of the Grand Island City Code.

**§20-20.1. Definitions**

(A) Tobacco products shall mean any substance containing tobacco leaf, including but not limited to, cigarettes, cigars, pipe tobacco, snuff, chewing tobacco, or dipping tobacco.

(B) Vapor products shall mean any noncombustible product, whether containing nicotine or not, that employs a heating element, power source, electronic circuit, or other

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electronic, chemical, or mechanical means, regardless of shape or size, that can be used to produce vapor. Vapor product shall include any electronic cigarette, electronic cigar, electronic cigarillo, electronic pipe, or similar product or device and any vapor cartridge or other container of solution that is intended to be used with or in an electronic cigarette, electronic cigar, electronic cigarillo, electronic pipe, or similar product or device. Vapor product does not include an alternative nicotine product, cigarette, cigar, or other tobacco product, or any product regulated as a drug or device by the United States Food and Drug Administration under Chapter V of the federal Food, Drug, and Cosmetic Act.

(C) Alternative nicotine product shall mean any noncombustible product containing nicotine that is intended for human consumption, whether chewed, absorbed, dissolved, or ingested by any other means. Alternative nicotine product does not include any vapor product, cigarette, cigar, or other tobacco product, or any product regulated as a drug or device by the United States Food and Drug Administration under Chapter V of the federal Food, Drug, and Cosmetic Act.

SECTION 2. Any ordinance or parts of ordinances in conflict herewith be, and hereby are, repealed.

SECTION 3. This ordinance shall be in force and take effect from and after its passage and publication, within fifteen days in one issue of the *Grand Island Independent* as provided by law.

Enacted: July 14, 2015.

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Jeremy Jensen, Mayor

Attest:

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RaNae Edwards, City Clerk